

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,  
PENNSYLVANIA

CHARLES S. DERITO,

Plaintiff,

v.

WAL-MART STORES EAST, L.P.

Defendants.

CIVIL COURT DIVISION

NO.: 2319 of 2019

COMPLAINT IN CIVIL ACTION

Filed on Behalf of Plaintiffs.

Counsel of Record for this Party:

BRUCE H. GELMAN, ESQUIRE  
Pa. I.D. No. 66048

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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

By: 

William Rodgers III, Esquire

**JURY TRIAL DEMANDED**

FILED IN  
PROTHONOTARY'S OFFICE

MAY 13 2019

BY: 

CLERK

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY PENNSYLVANIA  
CIVIL

WESTMORELAND COUNTY CIVIL COVER SHEET

CHARLES S. DERITO

Judge: Scherer

Case No. 2319 of 2019

Counsel: WILLIAM RODGERS III

Representing: CHARLES S. DERITO

Plaintiff(s)

vs.

WAL-MART STORES EAST, <sup>L.P.</sup> 

Pa. I.D. No. : 313553

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Defendant(s)

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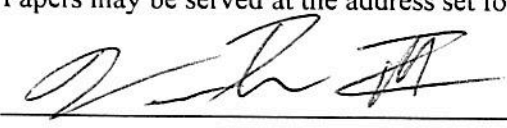
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PLEASE ANSWER THE FOLLOWING:

- |    |  |                              |  |
|----|--|------------------------------|--|
| 1. | Is the Amount In Controversy Less Than \$30,000?                       | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. | Does This Case Involve Discovery of Electronically Stored Information? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. | Does This Case Involve a Construction Project?                         | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

ENTRY OF APPEARANCE

TO THE PROTHONOTARY: Please enter my appearance on behalf of the Plaintiff/Petitioner/Appellant. Papers may be served at the address set forth above.

Signature: 

Date: 5/9/2019

Original – Prothontary

Copies - Judge and Opposing Counsel

Revised 5/26/2010

Exhibit "A"

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,  
PENNSYLVANIA

CHARLES S. DERITO,

CIVIL COURT DIVISION

Plaintiff,

NO.:

v.

WAL-MART STORES EAST, L.P.

Defendants.

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service  
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P.O. Box 565 Greensburg, PA 15601  
(724) 834-8490  
<http://lrs.westbar.org>

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY, PENNSYLVANIA  
IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,  
PENNSYLVANIA

CHARLES S. DERITO,  
Plaintiff,

CIVIL COURT DIVISION  
NO.:

v.

WAL-MART STORES EAST, L.P.

Defendants.

**COMPLAINT IN CIVIL ACTION**

AND NOW, come the Plaintiff, Charles S. DeRito, by and through his attorneys, Bruce H. Gelman, Esquire and William Rodgers III, Esquire, and files the following Complaint in Civil Action and in support thereof aver as follows:

1. Plaintiff Charles S. DeRito ("Plaintiff"), is an adult individual with a mailing address of 604 West 2<sup>nd</sup> Avenue, Derry, PA 15627.
2. Defendant Wal-Mart Stores East, L.P. ("Walmart") is a limited partnership organized and existing under the laws of the State of Delaware with a principal place of business at 601N Walton Blvd., Bentonville, Arkansas 72712.
3. Defendant Walmart is the operator of the Walmart Store located at 6700 Hollywood Blvd, Delmont, PA 15626.
4. At all times material hereto, Defendants acted through their agents, servants and employees acting in the course and scope of their employment
5. On January 20, 2019, Plaintiff was entering the Walmart Store located at 6700 Hollywood Blvd, Delmont, PA 15626.



6. As Plaintiff approached the entrance he noted that the automatic entrance door was not operating properly and would not open.

7. However the automatic exit door immediately next to the entrance door was left ajar to allow patrons to enter into the store.

8. Plaintiff entered through the threshold and into the store, through the exit door that had been left open, without incident.

9. Once inside the threshold of the store Plaintiff stepped onto a black rug.

10. As Plaintiff continued walking he stepped off the black rug and onto the tiled area of the floor he slipped and fell on a large amount of a substance, believed to be accumulated precipitation, water, and/or ice.

11. The aforementioned accident was the result of the negligence, carelessness and recklessness of Defendants and/or agents of such and was due in no manner whatsoever to any act or failure by Plaintiff.

12. As a direct result of the aforementioned fall, Plaintiff sustained the following injuries:

- a. Neck injury;
- b. Head injury;
- c. Right hip injury;
- d. Right wrist injury;
- e. Right hand injury;
- f. Right thumb injury;
- g. Right shoulder injury;
- h. Right shoulder full thickness rotator cuff tear;

- i. Right shoulder superior labrum, anterior [front] to posterior [back] tear;
- j. Right bicep tensynovitis; and
- k. Extensive surgery to the right shoulder region.

13. As a direct and proximate result of the injuries aforesaid, Plaintiff has suffered damages including the following:

- a. Past, present, and future pain and suffering;
- b. Past, present, and future mental anguish;
- c. Past, present, and future humiliation and embarrassment; and
- d. Past, present, and future impairment of Plaintiff's ability to enjoy life.

14. As a further result of these injuries, Plaintiff has been and will continue to be obligated to receive and undergo medical attention and care, to expend various sums of money, to incur various expenses, and will be obligated to continue to expend such sums for an indefinite time in the future and claim is made therefore.

**COUNT I**  
**PLAINTIFF CHARLES S. DERITO v. DEFENDANT WAL-MART STORES**  
**EAST, L.P. – NEGLIGENCE**

15. Plaintiff incorporates by reference the averments of paragraphs 1 through 11, as if fully set forth herein.

16. At all times material hereto, the Walmart store located at 6700 Hollywood Blvd, Delmont, PA 15626 was under the control of Defendant Walmart and/or agents of Defendant Walmart.

17. As a direct and proximate result of the negligence of the Defendant, Plaintiff sustained the injuries as detailed above.

18. The negligence, carelessness, and/or recklessness of Defendant Walmart, which caused the aforementioned accident, consisted of the following:

- a. Failure to properly monitor the area where Plaintiff was entering the store;
- b. Failure properly clear the floor of accumulated precipitation, water, and/or ice;
- c. Failure to hire appropriately trained staff;
- d. Failure to inspect the premises for dangers to business invitees; and
- e. Failure to post appropriate warning signs in an area with slippery conditions that Defendant was aware of or reasonably should have been aware of.

WHEREFORE, Plaintiff demands that judgment be entered in his favor and against the Defendants in an amount IN EXCESS of the jurisdictional arbitration limit together, plus interest and costs, and any other damages that this Honorable Court deems just given the circumstances.

Respectfully submitted,

GELMAN & RODGERS, LLC

BY: 

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*Counsel for Plaintiffs*

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CHARLES S. DERITO,

CIVIL COURT DIVISION

Plaintiff,

NO.:

v.

WAL-MART STORES EAST, L.P.

Defendants.

**VERIFICATION**

I, Charles S. DeRito, verify that the statements made in the foregoing COMPLAINT IN CIVIL ACTION are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa C.S.A. §4904, relating to unsworn falsification to authorities.

Dated: 5-8-19

  
Charles S. DeRito